

1 **Yaxian Fan**
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3 Address: 248 Overbrook,
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5 Phone Number: 310 486-5282
Plaintiff in Pro Per



UNITIED STATE DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION

CASE NO: 8:22 CV-02178-FWS-(DFMX)

10 **YAXIAN FAN – PLAINTIFF**
11
12 **vs.**
13 **CITY OF NEWPORT BEACH**
14 **DEFENDANT - REPRESENT BY**
15 **KER LEGAL GROUP**
16 **AND**
17 **ORANGE COUNTY SUPERIOR**
18 **COURT IN THE CITY OF SANTA**
19 **ANA - SECOND DEFENDANT**

**PLAINTIFF FILES AMENDED
COMPLAINT FOR OPPOSITION
PARTIES ENGAGE CONSPIRACY IN
VIOLAION OF DUE PROCESS OF
FOURTEENTH AMENDMENT.**

**ALSO, FILES AMENDED COVER
SHEET FOR FEDERAL QUESTION
JURISDICTION. 28 U.S.C. § 1331**

**DEMAND FOR COURT TRIAL, FOR
FAIR JUSTICE, FOR FACTS CHECK,
FOR CHILDREN'S SAFETY!**

JUDGE: Honor, Fred W. Slaughter
DEPT : 10D

21 TO: UNITED STATES HONORABLE JUDGE SLAUGHTER,
22

23 FOR RESPONSE COURT PROCEEDING ORDERED ON FEBRUARY 24, 2023.
24

Jurisdiction and Venue

- 26 1. This Court has jurisdiction over the subject matter and Plaintiff Pursuant
27 to 28 U.S.C. § 1331, as this case involves Questions of Federal Law.
28

PLAINTIFF FILES FEDERAL QUESTION JURISDICTION TO PURSUANT FOR FOURTEENTH AMENDMENT

2. Federal Question Jurisdiction arising when victim Personal Injury Claim, both Defendants has been involved damages with deprived Plaintiff's due process right, court procedure right, human right and Citizen Civil Right. The Rights on Laws and legal proceedings, in order to guarantee fundamental fairness and justice.

Defendant from City of Newport Beach - Represent by KER Legal Group, and Defendant from Orange County Superior Court Courtroom Operation Supervisor, Stacy D. Secours, even they are Legal professional, both engaged conspiracy in violation Constitution "Rule-of-Law" core is: **EQUAL RIGHT PROTECTION FOR DUE PROCESS** as for everyone is held accountable same laws, are guaranteed treated equally for all in United States. Therefore, Plaintiff Pursuant the Rights for due process clause of Fourteenth Amendment.

Fourteenth Amendment:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

1 3. Venue was proper determined this Federal Court of Southern Division of
2 Central District Court of California. Both Parties business operating and
3 living in the Orange County, for this case was initially assigned correctly.
4
5 **Statement of Facts and Claim – One**
6

7 **Both Defendants engage conspiracy deprived Plaintiff's Court Trial,
8
9 that serious violation in due process clause of fourteenth Amendment.**

10 4. Amendment Complaint to City of Newport Beach – Attorney KER Legal
11 Group, Owner is KER. He let Courtroom Operation Supervisor Stacy D.
12 Secours, twice to hold on Plaintiff's documents and twice disallowed scan
13 to Orange County Superior Court Register Online Access, ROA Docket.
14 These documents for Plaintiff filed for Dispute Summary Judgement
15 which against the City filed summary judgement on 9/13/2020.
16
17

18 5. Directly, Judges cannot access online to read the documents for the case.
19 Because only based on the City's files and opinion, that was totally unfair
20 and untrue, truly was wrongful granted summary Judgement. PERIOD!

21 Both parties engaged conspiracy in violation of Due Process Clause of the
22 Fourteenth Amendment provides that no state shall deprive any person of
23 life, liberty, or property, without due process of in common law.
24

25 Nor deny to any person within its jurisdiction equal protection of the laws.
26
27

1 6. Courtroom Operation Supervisor, Stacy D. Secours whom twice hold on
2 Plaintiff's Dispute Summary Judgement documents and twice stopped to
3 scan to ROA Docket. For such abusive of discretions to proof he was
4 intentionally to break public trust. Plaintiff does know him in personally,
5 of course, he does not know me too. but "Why did he hold on twice of
6 Plaintiff's documents?" Sure, only the way from KER let he to do so.
7 As Supervisor who should due diligence, to analysis the such behaver if
8 against constitution of due process when KER asked you. All evidence
9 than can help you make correct decisions. As a supervisor that is very
10 import rule, make sure court Procedures to goes to correct direction.
11 Protect and obey the Due Process Clause of Fourteenth Amendment in
12 Orange County Superior Court. But evidence to proof both of you
13 engaged conspiracy. That is totally unacceptable.
14

15 **Please see evidence from two court clerks in support to proof:**
16

17 7. On November 18, 2020, Plaintiff filed Dispute Summary Judgement that
18 for against the City filed Summary Judgement on September 21, 2020. During
19 Pandemic, the Court changed filing system from windows to drop off in box at
20 court lobby. Court Clerk Candis signed her name, told me: "You can receive
21 stamped date in next day." I was satisfied let me know and expecting for it.
22
23
24
25
26
27
28

1 After I out of Court, I direct went to Post Office sent a same copy to KER office
2 and wrote a note: "I'll send Court stamped date on cover page after I received."

3
4 8. On November 24, 2020, I still did not receive the stamped cover page,
5 and checked my documents did not show on ROA docket, I was extremely
6 worried due to Summary Judgement CourtCall less ten days on 12/3/2020. I
7 asked Court Clerk Susy, and she emailed to Candis: "Why Plaintiff did not
8 receive her stamped date after she filed in last time which was on 11/18/2020?
9 the answer was: "Supervisor hold on my documents." I asked: "Why? "What's
10 Supervisor's name? Susy not too sure and suggested I should file again.
11
12 9. After I filed second time, I was so shocked, Plaintiff's Dispute Summary
13 Judgement documents still not show on ROA Docket. "What was went wrong?"
14 I did not know Supervisor Stacy D Secours personally, "Why did you twice hold
15 my dispute summary judgement intentionally?" until to today still hold on to.
16
17

18 **Plaintiff demand his answer and my MSJ document return to Plaintiff ASAP.**
19
20

21 10. During 2021, Plaintiff filed three-time complaints to Presiding Judge, and
22 once again in 2023. due to the Court's employee as supervisor TWICE stopped
23 scan to ROA Docket, that was intentionally in violation of Due Process of
Fourteenth Amendment that subject matter for INVESTIGATION.

24
25 Finally, I had a letter, with respect if High Courts can solve the problem. Now,
26 Appellant hope Federal to have fully investigation. Otherwise, that can
27 encourage filing conspiracy and scandals easily to corrupt our Country's for
many years build up Great Courts Legal System!

1 11. Also, Plaintiff demand answer from KER, as KER Legal Group's owner:
2 “Why did your KER let Supervisor Stacy hold on Plaintiff's dispute Summary
3 Judgement to ROA Docket?” Both engaged conspiracy My claim is when
4 Courtroom Operation Supervisor abusive of discretion, abusive of due
5 process, the summary judgement must invalid immediately!

6

7 Statement of Facts and Claim – Two

8

9 Judge George violation in Due Process disallowed have Oral argument

10 12. On December 3, 2020, it was Thursday afternoon, during summary
11 judgement court call hearing, Judge Stephanie George, as temporary only
12 once for the case. I asked questions in beginning, such as: “I filed in timely, I
13 have trucking history, did you read my files? she has no any answer. She
14 asked: “Do you know the City filed tentative ruling?” I answered: “I don't know”,
15 after she reading based on only the City's tentative ruling, (My SMJ file still hold
16 on by Supervisor Stacy) Judge George should stop and ask Plaintiff before
17 granted summary judgement: “What do you want to response?” but she did not
18 stop, did not gave an opportunity let Plaintiff to response. She just continues to
19 reading the last sentence: “Summary Judgement is granted.” The City's
20 attorney Keith E, Rodenhuis immediately said: “Thank you your honor!” After
21 I heard that four words, I was emotionally, “It's not fair, that only for one big
22

1 party's ruling?" Judge George continue ignoring me, did not answer my any of
2 questions and she went next case. I hold on phone for half hours, try to find
3 chance if can speak to her, but my phone line was cut off. From Supervisor
4 Stacy hold on my files to no chance for response only party's opinion. From
5 KER Group outright lied for had Oral Argument, they all can using three ways
6 analysis "How can have oral argument KER only said: "Thank you your honor?"
7
8 13. See Attached Evidence from KER Group filed: "Motion for Sanction," on
9 4/14/2021 and 5/24/2021, (KER filed twice for the revenge sanctions) to proof
10 KER only said four words on top of two line's description: "*He was only able to*
11 *get out four words "thank you your honor" before Ms. Fan interrupted again.*" I
12
13 cannot interrupt him due to **AFTER KER said four words.**

14
15 **Important, Judge George did not ask for Plaintiff to response the**
16 **Tentative ruling and straight way to Granted summary judgement.**

17
18 I spent all day try to if can speak to Judge George, but I have no idea which
19 courtroom she was in? Finally, I found phone number and left message at
20 Courtroom C22 which is or assigned Judge Salter at 7.15 pm in Friday night.
21
22 I filed Contest Tentative Ruling with argued Tentative ruling on Monday,
23 12/7/2020. Arguments such as: "The City need to hire a dozen of employees
24
25

1 for warnings," I argued: "does not, just set up warning sign". KER claimed he
2 never received, but I have email to proof he lied and received it.
3

4 14. Again, I filed eleven arguments for disputed tentative ruling, KER claimed
5 he did not have that, but I have email to proof he lied and received it.
6

7 Argument continues on the City's immunity, by law section 24: "In the United
8 States, sovereign immunity typically applies to federal government and state
9 governments, but not to municipalities."
10

11 15. On 3/3/2021, from Judge Stephanie George granted Judgement: "the
12 Court finds that there is no triable issue as to material fact ", that was: "No
13 Plaintiff's dispute Summary Judgement material, how can you know what was
14 triable issue?" Furthermore, "How can Judge George make correct decision
15 only based on the City's opinions?"
16

17 "Why our Country need Due Process in support Courtroom operating?"
18

19 "Why we are People need Respectful and Trustworthy Judges?"
20

21 Because is to adjudicate legal dispute all parties, not for a party ruling
22

23 My claim is: Judge George only based on the City's file and evidence
24 proof she did not engage Oral Argument, and abusive of power in
25 violation of Due Process Fourteenth Amendment. Therefore, granted
26 Summary Judgement must be dismissed.
27

1 Statement of Facts and Claim – Three 2

3 Appellate Court of Fourth Appellate District Division Three's Opinions
4 based on violation of due process of 14th Amendment from two
5 defendants engaged conspiracy to dismissed appeal due to adopted
6 KER's Group Conclusion, and proof the City of Newport Beach was the
7 Appellate Court truly favoritism and careless on Children's safety.

8 16. Appellant Court's opinion mentioned: "The City filed a motion for
9 summary judgement, the motion is not in the record. Nor is Fan's opposition to
10 the summary judgement record motion, if any." Due to Supervisor Stacy did
11 not scan to ROA Docket and Judge George did not engage the Oral Argument,
12 so the dismissed appeal was extension for only the City's opinion, it this why
need Due Process Clause Protection!

13 14. The truth was, I attached the City provided evidences of Summary
15 Judgement was filed in Sep 21, 2020. Four evidences file to Appellant Court:
16

17 1). Declaration from Mark Halphice who as chief of Newport Beach fire
18 department for 36 years. He decelerated: "Sand, by its very nature, becomes
19 more tightly compacted after it has been wet or submerged by frequently rising
20 tides. Consequently, the sand on the bay beaches and surrounding the Tower
21 is denser and more tightly, clay like"

22 After I read declaration than I learnt why the sand same as concreate in
23 underground, due to frequently high tidal surrounding lifeguard stand on Marina
24 Park that located Newport Bay, with no warning signs. Thereafter, turning to
25 dangerous condition, caused Plaintiff's slip / fall / pothole broke bones injury.

26 2.) Declaration of Micah Martin, his position is Deputy of public worker. He uses
27 beach raking machines daily on the beaches, but not on the Newport Bay, and
he got hired after I had injury on May 15, 2018.

1 3.) Declaration of Eric Foley who as a certified inspector for 16 years.
2 From his decelerated: "I never observed children playing on the subject and
3 never been told that children have been playing on the tower."
4

5 From new evidence on 01/18/202, and 7/31/2022, which Plaintiff token photos
6 and videos as all evidences to proof Kids jump up down, especially, recent
7 photos with no warning sign on high tides submerges compact sand. Nobody
8 can see through WET in under no warning signs, which worry me every day.
9 4.) One photo as evidence, both party's exchanged exhibits as evidence during
10 deposition all day on August 12, 2020, for court trial on 01/26/2021, and
11 rescheduled to 03/29/2021.

12 Appellate Court also have other two reasons to dismissed Appeal.

13 1) Failed to file timely. If use 180 days, I only used 152 days. Also, assigned
14 **Judge Salter concluded from post judgment on 6/17/2021:**
15 **"Given one or the arguments is that Fan was not afforded the**
16 **opportunity to engage in oral argument on the summary judgement**
17 **motion, the court concludes it MUST allow the motion to proceed**
18 **as timely filed."**

19 After Judge Salter Post Judgement, the failed timely should not the issue
20 brought up to Appellate Court. But KER still use frivolous matter, and so
shocked to me, Appellant Court was dismissed appeal for such reason.

21 2) Failed to present any intelligible articulate legal argument, that was truly
22 insulting Plaintiff and with prejudice judgement. Plaintiff was intelligent
23 enough to analysis and argued Code 831.2 this not apply in improved
24 property, that frequently high tidal are foreseeable and predictable.

18. Above two reasons to dismissed appeal, that exactly adopted KER Group Conclusion on 11/4/2021. Evidence to proof Appellate Court was extension of in violation of due process clause from both Defendants.

After I filed Petition of Review to Supreme Court of California in San Francisco, the City no any of response. A month later, Supreme Court dismissed the review without any opinion or writing. I called and been told: "The court is too busy, average one hundred cases a day, and suggested I should file to Federal Court." I asked if in Washington, they said no, in Center district in Santa Ana.

Claim is Plaintiff suffering too much from both defendants engaged conspiracy together in violation of due process, deprived Plaintiff's rights and demanding for due process Right for fair justice and children's safety! All above, the City is not Prevailing Party, KER does not entitle for any of reward costs.

Statement of Facts and Claim – Four

All Evidence to proof KER Group how to engage conspiracy to conduct scandals illegally and repeatedly from Superior Court to Appellate Court.

19. Plaintiff demand an answer from the City's attorney Keith E. Rodenhuis as KER Legal Group's owner: "Why did you let courtroom operation Supervisor, Stacy D. Secours, to hold on Plaintiff's Court Documents for Dispute Summary Judgement?" which was twice hold on to, as prove that was intentionally.

1 20. On May 24, 2021, KER Group filed Motion for Sanction based on
2 threaten Plaintiff must withdrawal motion for dismiss wrongful summary
3 judgement before May 5, 2021, if do not, they file Sanction for revenge.
4 Because wrongful motivation, so the Sanction fully of accusations, outright lies
5 from beginning to ending. Fortunately, assigned Judge Salter dismissed the
6 Sanction and legal fee \$5,525 That to prove KER in violation of due process.
7

8 21. On 2/7/2022, KER sent an email attached anonymity letter. The letter is
9 evidence to proof KER Group conducted ugly scandals, using anonymity
10 letter continue to outright lies in Appellant Court. Anonymity false accusations
11 insult, abusive, harassment, hurtful, nobody backbites like that in my life. As
12 City's Attorney for such all above, totally unacceptable, and shameful.
13

14 **Purportedly lies to court, as represent under penalty of perjury!**
15

16 23. On 12/20/2023, KER Group claimed recovery cost in Deposition \$3,776.
17
18 On 12/22/2022, after two days (but KER still blamed that failed timely, he just
19 cannot stop lies), I filed Response: "**The City is not truly prevailing party,**
20 **KER Group is not qualified for recovery cost. Based on they illegally**
21 **conducted scandals from Superior Court to Appellant Court.**"
22

23 Because the City's attorney engaged conspiracy that fundamentally serious
24 in violation of Due Process and play ugly scandals behind, (hope that just
25

1 temporary for prevailing) **Plaintiff is still does not give up, Hope and**
2 **Respect Federal Court is following on 14th Amendment to make**
3 **corrections for allowing back for due processing.**

5 24. Also, the deposition cost is disallowable for award cost by 1033. Details:
6 “Deposition for investigation for Court Trial is disallowable, only expense
7 associated with Depositions.” Again, assigned Judge Salter’s ruling: “the costs
8 are not statutorily authorized or not reasonable under the facts.” KER as
9 professional attorney whom knowledge deposition is disallowable, but still
10 wants get double paid due to from Plaintiff and the City has been paid the bill.
11

13 25. History always repeats! On 12/30/2019, KER Charged \$9,500 for legal
14 fee, but split 50/50 between the City and Plaintiff as victim, that means KER
15 spent same amount of time to deal same case for both sides, that was truly
16 conflict in interest. Fortunately, that was first time disallowed charge by
17 assigned Judge Salter. “Why KER always so greedy? and played such ugly
18 scandals?” Evidence to prove KER engaged conspiracy deprived Plaintiff’s
19 human right, Court Procedural Right and Citizen Civil Right for Court Trial, for
20 Fair Justice and Children’s Safety. In this common lawsuit, he tried maximum
21 to take advantage of Plaintiff as Self–Represent. That was worst experiences
22

1 I never been before. Direct causation for the City represents by KER Group
2 filed Summary Judgement must invalid immediately!
3

4 **My Claim is that such ugly scandal plays in behind to against Due Process,**
5 **the Summary Judgement should invalid immediately. Otherwise, same as virus,**
6 **corrupt our country build up great legal system so easily. Also, claiming:**
7

8 **Purportedly lies to court, as represent under penalty of perjury!**
9

10 **Statement of Facts and Claim – Five**

11 **Because the City's no more “KEEP OFF” Sign, that remains even**
12 **more dangerous condition and leaves of public, including children**
13 **who play there at risk.**
14

15 26. City of Newport Beach failure to notices SAND submerges with WET
16 which high tides in underground, and surrounding the lifeguard Stand, that
17 caused Plaintiff's Slip / Fall / Pothole injured to broke left forearm and foothill.
18 Until now still no warning signs constantly since after injured five years ago.
19

20 Because no warning of hiding WATER, nobody can see through dry sand in
21 underground that same as concreate surrounding Lifeguard Stand.
22

23 27. I worry anyone can injury again from the hiding the “Pothole,” especially,
24 since the new evidence photos and videos from 2021 and 2022. From all
25 evidence shows more in children's Park need extra care. The City failure to
26 provide due care same as Ocean front, The City cannot ignore and failure to
27 following National Safety Council about sand rules, such as: have six-foot long
28

1 drop off zone, cover depth fluff sand and rake sand daily, and do not tread
2 children's safety and provide due care as secondary.
3

4 28. Plaintiff have all strong relevance evidences to establish the lawsuits,
5

6 Plaintiff's Courts documents based on all evidences to proof the truth.
7

8 Defendant does not present facts of authorities relating to the case merits, no
9

10 evidence in support to proof Plaintiff's injury does not cause the City
11

12 negligence. Opposition has no evidence to defense Plaintiff's injury, which
13

14 have no good reason, just outright lies for using failed timely all the time.
15

16 Plaintiff listed Citations for legal justification and evidences, please see original
17
18 complaint filed on 12/2/2022
19

20 **Plaintiff Claim: Respect Federal Court for Protection for Due Process right back
21 for Court Trial for Facts Check, for Children's Safety. Also, Premise Liability
22 against the City cause of Plaintiff's Slip / Fall / Pothole which direct causation
23 broke bones injury without warning signs for four foreseeable conditions, that
24 only the City's management knowing.**

25 **Request for Relief**

26 29 WHEREFORE, the Plaintiff requests:
27

28 **For this case, Everything I do, do for to prevent children and visitors that
29 water in under with no warnings, to avoid what suffering I have been
30 through at Children's Marina Park.**

1 30. For this case, Everything I do, do for to make sure children jump down at
2 lifeguard stand if at the save place and provide good due care same as
3 Oceanfront, also, within warning sign of WET in underground is the MUST!

4 31. Plaintiff demand for Protection of human rights, Citizen Civil Right, Due
5 Process Right to make sure Court proceedings if fair, that proper laws were
6 applied correctly, Pursuant Due Process Clause of Fourteenth Amendment.
7

8 32. Compensatory damages, including General and Special damages,
9 according to proof. Any further relief which the Court may deem appropriate
10

11 33. **Do not Demand for Jury Trial**
12

13 **Fair justice is our time dream for! Equality is our society stand for!**
14

15 **Respectfully and Truthfully Submitted,**
16

17 **YAXIAN FAN,**
18



19 **Date: 03/24/2023**

20 **Plaintiff in Self – Represent**

21 List of attached evidences and form for amended Cover sheet.
22

23 1). Please see attached an Amended Cover Sheet for subject matter jurisdiction.
24

25 2). Evidence from two clerks Plaintiff Summary Judgement twice hold on by Superior Stacy S.
26

27 3). Evidence for No Oral Augment during Summary Judgement Court Call Hearing, four words
28 opposition only said four words: "Thank you your honor" on 12/3/2020. 4. Post judgement from
assigned Judge Salter, MUST file timely and do not engage oral argument on 6/17/2021.

EXHIBIT A

Amended Cover Sheet

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET*Amendment*

I. (a) PLAINTIFFS (Check box if you are representing yourself <input checked="" type="checkbox"/>) Yaxian Fan		DEFENDANTS (Check box if you are representing yourself <input type="checkbox"/>) City of Newport Beach - Represent by KER Legal Group Orange County Superior Court				
(b) County of Residence of First Listed Plaintiff <u>Orange County</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i>		County of Residence of First Listed Defendant <u>Orange County</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i>				
(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information. Yaxian Fan, Address: 248 Overbrook, Irvine CA, 92620		Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information. KER Legal Group				
II. BASIS OF JURISDICTION (Place an X in one box only.)		III. CITIZENSHIP OF PRINCIPAL PARTIES -For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant)				
<input type="checkbox"/> 1. U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3. Federal Question (U.S. Government Not a Party)	Citizen of This State <input type="checkbox"/> 1 <input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business in this State <input type="checkbox"/> 4 <input checked="" type="checkbox"/> 4			
<input type="checkbox"/> 2. U.S. Government Defendant	<input type="checkbox"/> 4. Diversity (Indicate Citizenship of Parties in Item III)	Citizen of Another State <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State <input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5			
		Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input checked="" type="checkbox"/> 3	Foreign Nation <input type="checkbox"/> 6 <input checked="" type="checkbox"/> 6			
IV. ORIGIN (Place an X in one box only.)						
<input type="checkbox"/> 1. Original Proceeding	<input type="checkbox"/> 2. Removed from State Court	<input type="checkbox"/> 3. Remanded from Appellate Court	<input type="checkbox"/> 4. Reinstated or Reopened	<input type="checkbox"/> 5. Transferred from Another District (Specify)	<input type="checkbox"/> 6. Multidistrict Litigation - Transfer	<input type="checkbox"/> 8. Multidistrict Litigation - Direct File
V. REQUESTED IN COMPLAINT: JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Check "Yes" only if demanded in complaint.)						
CLASS ACTION under F.R.Cv.P. 23: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			MONEY DEMANDED IN COMPLAINT: \$ 500,000			
VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) Both Defendants violation of Due Process Clause of the Fourteenth Amendment that derive Plaintiff's citizenright for due process, for facts check, for Children's Safety						
VII. NATURE OF SUIT (Place an X in one box only).						
OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS	
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	Habeas Corpus:	<input type="checkbox"/> 820 Copyrights	
<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 830 Patent	
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	TORTS	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	PERSONAL PROPERTY	<input type="checkbox"/> 530 General	<input type="checkbox"/> 840 Trademark	
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)	
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	Other:	SOCIAL SECURITY	
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 861 HIA (1395ff)	
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 862 Black Lung (923)	
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))	
<input type="checkbox"/> 485 Telephone Consumer Protection Act	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 560 Civil Detainee	<input type="checkbox"/> 864 SSID Title XVI	
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> Conditions of Confinement	<input type="checkbox"/> 865 RSI (405 (g))	
<input type="checkbox"/> 850 Securities/Commodities/Exchange	REAL PROPERTY	<input type="checkbox"/> 355 Motor Vehicle Product Liability	FORFEITURE/PENALTY	CIVIL RIGHTS	FEDERAL TAX SUITS	
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 429 Withdrawal 28 USC 157	<input checked="" type="checkbox"/> 441 Voting	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 365 Personal Injury-Product Liability	LABOR	<input type="checkbox"/> 442 Employment		
<input type="checkbox"/> 895 Freedom of Info. Act		<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 710 Fair Labor Standards Act		
<input type="checkbox"/> 896 Arbitration		<input type="checkbox"/> 368 Asbestos	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 720 Labor/Mgmt. Relations		
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision		<input type="checkbox"/> 369 Personal Injury-Product Liability	<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 740 Railway Labor Act		
<input type="checkbox"/> 950 Constitutionality of State Statutes			<input type="checkbox"/> 448 Education	<input type="checkbox"/> 751 Family and Medical Leave Act		
				<input type="checkbox"/> 790 Other Labor Litigation		
				<input type="checkbox"/> 791 Employee Ret. Inc. Security Act		

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

QUESTION A: Was this case removed from state court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question E, below, and continue from there.	STATE CASE WAS PENDING IN THE COUNTY OF:	
	<input type="checkbox"/> Los Angeles, Ventura, Santa Barbara, or San Luis Obispo	
	<input type="checkbox"/> Orange	
	<input type="checkbox"/> Riverside or San Bernardino	
INITIAL DIVISION IN CACD IS:		
Western		
Southern		
Eastern		

QUESTION B: Is the United States, or one of its agencies or employees, a PLAINTIFF in this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question C. If "yes," answer Question B.1, at right.	B.1. Do 50% or more of the defendants who reside in the district reside in Orange Co.? <i>check one of the boxes to the right</i> →	
	YES. Your case will initially be assigned to the Southern Division. <input checked="" type="checkbox"/> Enter "Southern" in response to Question E, below, and continue from there.	
	NO. Continue to Question B.2.	
	B.2. Do 50% or more of the defendants who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.) <i>check one of the boxes to the right</i> →	
YES. Your case will initially be assigned to the Eastern Division. <input type="checkbox"/> Enter "Eastern" in response to Question E, below, and continue from there.		
NO. Your case will initially be assigned to the Western Division. <input type="checkbox"/> Enter "Western" in response to Question E, below, and continue from there.		

QUESTION C: Is the United States, or one of its agencies or employees, a DEFENDANT in this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question D. If "yes," answer Question C.1, at right.	C.1. Do 50% or more of the plaintiffs who reside in the district reside in Orange Co.? <i>check one of the boxes to the right</i> →	
	YES. Your case will initially be assigned to the Southern Division. <input checked="" type="checkbox"/> Enter "Southern" in response to Question E, below, and continue from there.	
	NO. Continue to Question C.2.	
	C.2. Do 50% or more of the plaintiffs who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.) <i>check one of the boxes to the right</i> →	
YES. Your case will initially be assigned to the Eastern Division. <input type="checkbox"/> Enter "Eastern" in response to Question E, below, and continue from there.		
NO. Your case will initially be assigned to the Western Division. <input type="checkbox"/> Enter "Western" in response to Question E, below, and continue from there.		

QUESTION D: Location of plaintiffs and defendants?		A.	B.	C.
		Orange County	Riverside or San Bernardino County	Los Angeles, Ventura, Santa Barbara, or San Luis Obispo County
Indicate the location(s) in which 50% or more of <i>plaintiffs who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location(s) in which 50% or more of <i>defendants who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

D.1. Is there at least one answer in Column A? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "yes," your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question E, below, and continue from there. If "no," go to question D2 to the right. →	D.2. Is there at least one answer in Column B? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "yes," your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question E, below. If "no," your case will be assigned to the WESTERN DIVISION. Enter "Western" in response to Question E, below.		
	↓		

QUESTION E: Initial Division?		INITIAL DIVISION IN CACD	
Enter the initial division determined by Question A, B, C, or D above: →		SOUTHERN <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
QUESTION F: Northern Counties?			
Do 50% or more of plaintiffs or defendants in this district reside in Ventura, Santa Barbara, or San Luis Obispo counties? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

IX(a). IDENTICAL CASES: Has this action been previously filed in this court?

NO

YES

If yes, list case number(s): 8:22-cv-02178-FWS-DFM Honorable Judge: Slaughter (Previously Original filed on December 2, 2022) Today filed an Amendment.

IX(b). RELATED CASES: Is this case related (as defined below) to any civil or criminal case(s) previously filed in this court?

NO

YES

If yes, list case number(s):

Civil cases are related when they (check all that apply):

- A. Arise from the same or a closely related transaction, happening, or event;
- B. Call for determination of the same or substantially related or similar questions of law and fact; or
- C. For other reasons would entail substantial duplication of labor if heard by different judges.

Note: That cases may involve the same patent, trademark, or copyright is not, in itself, sufficient to deem cases related.

A civil forfeiture case and a criminal case are related when they (check all that apply):

- A. Arise from the same or a closely related transaction, happening, or event;
- B. Call for determination of the same or substantially related or similar questions of law and fact; or
- C. Involve one or more defendants from the criminal case in common and would entail substantial duplication of labor if heard by different judges.

**X. SIGNATURE OF ATTORNEY
(OR SELF-REPRESENTED LITIGANT):**

DATE: 03/24/2023

Notice to Counsel/Parties: The submission of this Civil Cover Sheet is required by Local Rule 3-1. This Form CV-71 and the information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. For more detailed instructions, see separate instruction sheet (CV-071A).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))

EXHIBIT B.

Two Court Clerks. Signed name & Date.
for received Dispute Summary Judgment.

* Susy 2nd 11/24

Susy signed her name & date.
On 11/24/2020, I dropped my file for
2nd Time. Also, she emailed to
Candice about: "where was my file"
and told me: "Supervisor has my file,"
I asked: "what's supervisor name?
Why hold my file too long,?"

Susy is not too sure about.

Candice told me "I can received
copy of stamp the date 11/18/2020
in next day.

After, I sent to defendant's
KBR legal Group, They received
in next day on 11/19/2020

See tracking number, I printed delivery history.

* Candice
Clerk

11/18/2020 filings.
1st drop 11/18/2020

EXHIBIT C

Evidence to Proof No Oral Argument.

KER filed ~~via~~ Sanctions 5/24/2021

this page as evidence from KER Filed "Motion For Sanction" on 4/14/2021

"How can have oral Argument. KER only said: "Thank you your honor"

KER Lies again, what did I shout about? KER need ~~proffes~~ Court.

to stop shouting and Mr. Rodenhuis was unable to speak over her. He was only able to get out

four words "thank you your honor" before Ms. Fan interrupted again. Decl. of KER ¶ 13. The

Court, unpersuaded by Plaintiff's shouting, adopted the tentative as its final ruling. Decl. of

KER ¶ 14. ~~I hope the Court have type record to proof who is ²⁰²⁰ Fan on 12/3/2020~~

From the December 3, 2021 oral argument to the present, our firm has received a torrent

of emails and documents from Plaintiff. Decl. of KER ¶ 15; See also, Decl. of KER, Exhibit E.

Each document contained threats and outlandishly false allegations against the Court, the City

and KER Legal Group, including calling Judge Stephanie George a "fake judge". In the

documents, Ms. Fan repeatedly stated, "I still hope the real Judge: Honor Glenn Salter should" ~~take~~

to review the procedures and the decisions in the wrongful judgment by the temporary Judge ~~Judge~~

Stephanie George on 3/3/2021." See, Decl. of KER, Ex. A & E. ~~KER need give "where~~

~~emailed on 3/25/2021, & and attached files~~ ~~and when~~ ~~On March 25, 2021 at 1:38p.m., our firm received an email with three (3) documents~~ ~~d.c. I~~

attached. Decl. of KER ¶ 16. The documents were nonsensical, but out of an abundance of ~~use false~~

caution, our firm checked the Register of Actions and discovered Ms. Fan had somehow ~~only call~~

scheduled an ex parte hearing for the next day, despite failing to give any notice. Unsure of the ~~Tempor~~

basis of Plaintiff's ex parte, the City telephonically appeared at the hearing. Decl. of KER ¶ 17. ~~Judge is: Richard Oberholzer, not Judge Salter, Le again~~

During the March 26, 2021 ex parte hearing, the Court (Honorable Salter) again ~~call~~

explained to Plaintiff that there was oral argument held by a "real judge" Honorable Stephanie ~~Le again~~

George on December 3, 2021, and Plaintiff's case was over. The Court was repeatedly ~~Le again~~

interrupted by Plaintiff shouting "No!" The Court was forced to take a break, further delaying ~~Le again~~

the other emergency ex parte hearings, until Plaintiff was finally off the line. Decl. of KER ¶ 18. ~~Because, during the ex parte, in the very beginning, I didn't~~

~~know why suddenly, my phone no sound, I was scared if had my phone~~ ~~On March 31, 2021, we received another email from Plaintiff with the current Motion's~~

moving papers attached. Decl. of KER ¶ 19. The email contained three (3) PDFs (the ~~Le again~~

"Challenged Motion") labeled by Plaintiff as:

1. "Motion for Vacate Wrongful Judgement [sic]" (See, Decl. of KER, Ex. A1);
2. "Contesting the judgement [sic]" (See, Decl. of KER, Ex. A2); and
3. "Contest tentative ruling" (See, Decl. of KER, Ex. A3).

EXHIBIT: D

Post Judgment: Concludes it must allow
the motion to proceed as timely filed."

After six days. plaintiff filed notice for
Appeal. Therefor, is such a timely issue.

6/17/2021 - From Judge Salter

Rulings 1

I filed
on 3/11/2021
and 3/17/2021
rejected, by
the clerk's office
for noncompliance with the Rules
of Court.
or email. only
File at 1st floor
window OK

wrongful judgment." But the only extant document in the file is the clerk's rejection. (RAO 190.) Fan made several other requests to bring her claims as to the alleged wrongfulness of the judgment to the court's attention, but they were all rejected by the clerk's office for noncompliance with the Rules of Court.

On March 26, 2021, Fan filed a motion to vacate what she termed a "wrongful" judgment. (ROA 205.) Apparently, this was after Judge Oberholzer denied her ex parte request to continue trial of a matter that had been dismissed. (See ROA 203.) She attempted to file a new motion to vacate on May 17, 2021, but that was rejected for failure to pay a filing fee and because there was already a motion to vacate on calendar. (See ROA 225.) I passed 60, - after clerk asked

The court understands the plaintiff to make three basic arguments: (1) Judge George was not a "real" judge and, in any event, she was wrong to grant summary judgment under the facts; (2) plaintiff was deprived of the opportunity to engage in oral argument; and (3) there is additional documentary and photographic evidence that proves the plaintiff's case.

Thank you
for the court
understand how
difficult situation
a

First, the City argues the motion was untimely filed. It is unclear from the nature of the motions and other documents filed what documents should be considered as the motion now before the court. Because Fan tried to file a declaration raising the issues she raises now right after the judgment was entered, this court is inclined, out of an abundance of caution, to deem the motion timely. Given one of the arguments is that Fan was not afforded the opportunity to engage in oral argument on the summary judgment motion, the court concludes it must allow the motion to proceed as timely filed.

Fan's assertion that Judge George is not a "real judge" and somehow this court had to hear the summary judgment motion is wrong. Judge George is a duly elected judge of the Orange

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO:		FOR COURT USE ONLY
NAME: Yaxian Fan		
FIRM NAME:		
STREET ADDRESS: 248 Overbrook		
CITY: Irvine		STATE: Ca ZIP CODE: 92620
TELEPHONE NO.: 310-486-5282 FAX NO.:		
E-MAIL ADDRESS: fay731@yahoo.com		
ATTORNEY FOR (name): Self-Represent		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Central District of California-Southern Div		
STREET ADDRESS: 411 W Fourth St		
MAILING ADDRESS:		
CITY AND ZIP CODE: Santa Ana, CA 92701		
BRANCH NAME: Ronald Regan Federal Building - an U/S/ Courthouse		
PLAINTIFF/PETITIONER: Fan		
DEFENDANT/RESPONDENT: City of Newport Beach / Orange County Superior Court		
PROOF OF ELECTRONIC SERVICE		
CASE NUMBER: 8:22-CV-02178-FWS-(DFMx)		
JUDICIAL OFFICER: Honor. Judge Fred W. Slaughter		
DEPARTMENT: D10		

1. I am at least 18 years old.
 - a. My residence or business address is (specify):
248 Overbrook
Irvine, CA 92620
 - b. My electronic service address is (specify):
fay731@yahoo.com
2. I electronically served the following documents (exact titles):
 - 1) Amended Complain for both defendants violation of Due Process Clause of the Fourteenth Amendment,
 - 2) Amended Cover Sheet for Federal Question Jurisdiction

The documents served are listed in an attachment. (Form POS-050(D)/EFS-050(D) may be used for this purpose.)
3. I electronically served the documents listed in 2 as follows:
 - a. Name of person served: keith E. Rodenhuis, Amber McCall, Roger, Superior Court in Orange
On behalf of (name or names of parties represented, if person served is an attorney):
City of Newport Beach
 - b. Electronic service address of person served :
keith@kerlegalgroup.com, amber@kerlegalgroup.com, Roger@kerlegalgroup.com, cnbfan_federal@projects.filevine.com
 - c. On (date): 3/24/2023

The documents listed in item 2 were served electronically on the persons and in the manner described in an attachment. (Form POS-050(P)/EFS-050(P) may be used for this purpose.)

Date: 3/24/2023

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Yaxian Fan

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

Page 1 of 1